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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL NO. 2004-0255
Before: APJ BARRETT, LEVY, RUGGIERO

Application No.: 09/045,518
Appellant: Van Luchene, Andrew S.
For: METHOD AND APPARATUS FOR PROCESSING A SUPPLEMENTARY
PRODUCT SALE AT A POINT-OF-SALE TERMINAL

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NEW GROUNDS OF REJECTION RAISED AT ORAL HEARING

At the oral hearing on May 6, 2004, a new ground of rejection was discussed, involving

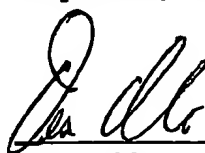
- (i) an interpretation of Eleftheriou that was not previously applied by the Examiner, as well as
- (ii) motivations to combine / modify not previously asserted by the Examiner.

If applied as the basis for a Section 103(a) rejection, such rejection would be a new rejection since Appellant had no previous opportunity to address the merits on the record.

Specifically, a hypothetical was raised in which

- (i) the system of Eleftheriou would be modified to receive a rounding code (embodied as a software instruction) by receiving a reprogramming instruction;
- (ii) this Eleftheriou system would round the maximum amount (not the purchase price) that is split from the purchase price and transferred to / from the "container" (*Contra* Examiner's Answer, p. 5);
- (iii) Fiorini's rounding of a purchase price to the nearest nickel would be combined with Eleftheriou's rounding of the maximum amount that is split from the purchase price (*Contra* Examiner's Answer, p. 5); and
- (iv) the motivation for such combination / modification would be to generally round purchase prices more flexibly (*Contra* Examiner's Answer, p. 6).

Respectfully submitted,



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May 11, 2004

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• **Comments:**

Re: Appeal No. 2004-0255

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Veronika S. Leliever

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